



Economic Impact Analysis Virginia Department of Planning and Budget

9 VAC 25-580 – Underground Storage Tanks: Technical Standards and Corrective Action Requirements
State Water Control Board
June 22, 2009

Summary of the Proposed Amendments to Regulation

Pursuant to the requirements of the federal Energy Policy Act of 2005, the State Water Control Board is proposing 1) to require secondary containment of all new and replacement underground storage tanks and associated piping within 1000 feet of an existing community water system or other potable drinking water well; 2) to establish criteria for determining what tanks are ineligible for petroleum delivery, the methods for marking the tanks, providing notice to owners/operators and delivery companies that the tanks are ineligible and for developing criteria for reclassifying ineligible tanks as eligible; and (3) to require training for certain classes of underground storage tank operators.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Pursuant to the requirements of the federal Energy Policy Act of 2005, the State Water Control Board is proposing 1) to require secondary containment of all new and replacement underground storage tanks (UST) and associated piping within 1000 feet of an existing community water system or other potable drinking water well; 2) to establish criteria for determining what tanks are ineligible for petroleum delivery, the methods for marking the tanks, providing notice to owners/operators and delivery companies that the tanks are ineligible and for developing criteria for reclassifying ineligible tanks as eligible; and (3) to require training for certain classes of UST operators. The goal of the amendments is to reduce the number and

severity of petroleum leaks from UST systems by strengthening pollution prevention requirements and encouraging UST owners and operators to maintain compliant UST systems.

The proposal to require secondary containment of all new and replacement USTs is expected add to the costs of operating these tanks. According to the Department of Environmental Quality (DEQ), the price of a 10,000 gallon single walled tank is \$11,100 while the price of double walled tank is \$17,900. However, the additional costs are believed to be the lowest possible between the two options made available by the Energy Policy Act of 2005. The federal policy requires states to promulgate regulations either to require UST owners and operators to provide secondary containment for new and replacement USTs and piping if the system is within 1,000 feet of any existing community water system or any existing potable drinking water well; or require tank manufacturers and installers to maintain evidence of financial responsibility for releases associated with improper installation or manufacture of tanks. The Energy Act mandates that states choose between requiring secondary containment and requiring tank manufacturers and installer to be financially responsible.

According to DEQ, the board chose secondary containment as in 54 other states and territories because it is the most environmentally protective alternative and preliminary research indicates that the majority of new tanks (66%) and piping (72%) installed today are secondarily contained. The complexities of implementing a financial responsibility program for all UST equipment installed in the state would require significant administrative resources to audit installer and manufacturer financial responsibility requirements and referee litigations. Further, establishing a program for manufacturer and installer financial responsibility may result in an additional burden on the Virginia Petroleum Storage Tank Fund. The Fund currently acts as a financial responsibility mechanism for tank owners and operators in addition to funding petroleum cleanups. Requiring this additional financial responsibility could mean the Fund will be called upon to act as an additional financial responsibility mechanism for manufacturers and installers, as well, potentially resulting in fewer funds available for petroleum cleanups.

The proposed regulations will also establish criteria for determining what tanks are ineligible for petroleum delivery, the methods for marking the tanks, providing notice to owners/operators and delivery companies that the tanks are ineligible and for developing criteria

for reclassifying ineligible tanks as eligible. These requirements are expected to strengthen the enforcement of prevention of delivery for problematic USTs.

Finally, the proposed regulations will require training for certain classes of underground storage tank operators. There are three main types of operator classes. Class A for owners, Class B for managers, Class C for cashiers. One person could be certified as all three types of classes. The training of these operators would increase compliance costs in terms of the actual expense of the training classes, the wages associated with the time spent in completing the training, and any room and board expenses if necessary. While there are approximately 6842 facilities in the Commonwealth, it is not known how many individuals would be required to complete training classes.

In addition to reducing the number and severity of petroleum leaks from UST systems by strengthening pollution prevention requirements and encouraging UST owners and operators to maintain compliant UST systems, the proposed regulations will also satisfy the federal Energy Policy Act requirements to maintain approximately \$2.5 million in federal grants.

Businesses and Entities Affected

The proposed regulations apply to approximately 6842 facilities with underground storage tanks.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

The proposed requirements are expected to increase compliance costs of UST operators and may reduce their demand for labor. However, higher UST standards and training requirements are expected to increase demand for labor in other areas. More importantly, the proposed regulations are expected to prevent loss of approximately \$2.5 million in federal grant funds and maintain associated demand for labor through this grant.

Effects on the Use and Value of Private Property

The proposed regulations are expected to increase compliance costs of UST facilities and consequently reduce their asset values. To the extent the proposed regulations reduce the frequency and severity of UST leaks, the value of real estate that may have been otherwise

adversely affected would be maintained. Also, the asset value of operator training businesses and double walled UST systems are expected to increase.

Small Businesses: Costs and Other Effects

Most of the affected facilities are believed to be small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed alternative is the one that is believed to have the minimum adverse impact on small businesses.

Real Estate Development Costs

The proposed regulations are not expected to have a significant effect on real estate development costs.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.